

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,
individually and on behalf of NORFOLK
& PORTSMOUTH BELT LINE
RAILROAD COMPANY,

Plaintiff,

v.

Civil Action No. 2:18-cv-530-MSD-RJK

NORFOLK SOUTHERN RAILWAY
COMPANY, *et al.*,

Defendants.

/

**CSX TRANSPORTATION INC.'S NOTICE OF APPEAL
BY DEFENDANT NORFOLK SOUTHERN RAILWAY COMPANY**

Plaintiff CSX Transportation, Inc. (“CSX”), by counsel, hereby notifies the Court that on August 15, 2022, Defendant Norfolk Southern Railway Company (“NSR”) filed a Petition for Review with the D.C. Circuit Court of Appeals. The NSR Petition for Review appears to challenge only approximately two paragraphs found on page 16 of the Surface Transportation Board’s (“STB”) Decision of June 17, 2022. *Norfolk Southern Railway Co. v. Surface Transportation Board and United States of America*, Case No. 22-1209 (D.C. Circuit). Copies of NSR’s Petition and the D.C. Circuit’s Order on initial docketing and submission deadlines are attached, respectively, as **Exhibits A and B**. The Petition avers that NSR is aggrieved by the STB’s rejection of NSR’s arguments that the ICC authorized NSR to control the NPBL in 1991 and 1998, making it immune to CSX’s antitrust claims in this case. *See* Petition, Ex. A at 3. NSR argues in the Petition for Review that it can appeal that aspect of the STB’s ruling to the D.C. Circuit, as

opposed to presenting it to this Court, because that particular argument by NSR was not part of the questions this Court referred to the STB for determination.

CSX notifies the Court that it intends to file a motion to intervene in the Petition proceeding. CSX is providing this Notice to the Court of this appeal initiated by NSR, and CSX will continue to Notice the Court of any other material developments in the proceedings.

Dated: August 17, 2022

Respectfully submitted,

CSX TRANSPORTATION, INC.

By Counsel

/s/ Robert W. McFarland

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CERTIFICATE OF SERVICE

I certify that on this 17th day of August, 2022, a true and correct copy of the foregoing was served on all counsel of record via Notice of Electronic Filing by filing with the Court's CM/ECF system.

/s/ Robert W. McFarland

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